

CHARTER  
OF THE  
**Town of Burkittsville**

FREDERICK COUNTY, MARYLAND

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# **BURKITTSVILLE**

## **ARTICLE I**

### **Incorporation of Town; Corporate Limits**

#### Section 17-1. Incorporation of town.

The inhabitants of the Town of Burkittsville, Frederick County, Maryland, within the corporate limits legally established from time to time are hereby constituted or continued a body corporate by the name of "The Mayor and Council of Burkittsville" with all the privileges of a body corporate, by that name to sue and be sued, to plead and be impleaded in any court of law or equity, to have and use a common seal and to have perpetual succession, unless the Charter and the corporate existence are legally abrogated. (3-9-64, § 1.)

#### Section 17-2. Corporate limits.

The courses and distances showing the exact corporate limits of the town shall be filed at all times with the clerk of the circuit court of Frederick County, the commissioner of the land office, the director of the department of legislative reference and in the office of the clerk-treasurer.

All the officials named in this section are hereby directed to file or record all such descriptions of corporate boundaries so filed with them, each in a suitable book or place, properly indexed and reasonably available for public inspection during normal business hours. The corporate limits of the Town of Burkittsville shall be as follows:

Beginning at the fork of the Burkittsville-Gapland-Locust Valley Road, which lies four-tenths of a mile northwest of the square in Burkittsville; thence northeast to crest of Red Hill, where dividing line separates the properties of John S. Zecker and Edgar Y. Shafer and which point lies fifty-five hundredths of a mile from the square in Burkittsville; thence southeast to the point where the Old Mill Lane joins the Burkittsville-Jefferson Road, which point is eight-tenths of a mile from the square in Burkittsville; thence southwest to the point where the Samuel Ausherman Farm Lane meets the Burkittsville-Brunswick Pike, which point lies four-tenths of a mile from the square of Burkittsville; thence northward to the point of beginning, which is the fork of Gapland-Locust Valley-Burkittsville Road. (3-9-64, § 2.)

## **ARTICLE II**

### **Council**

#### Section 17-3. Number of councilmen; selection; term.

All legislative powers of the town shall be vested in a mayor and council consisting of three councilmen who shall be elected as hereinafter provided and who shall hold office for a term of three years or until the succeeding mayor and council take office. The regular term of

councilmen shall expire on the first Monday following the election of their successors. Councilmen holding office at the time this Charter becomes effective (See note (1)) shall continue to hold office for the term for which they were elected and until the succeeding council takes office under the provisions of this Charter. (3-9-64, § 3.)

Section 17-4. Qualifications.

Councilmen shall be at least twenty-five years of age, shall have resided in the town for at least six months immediately preceding their election, shall be the owners or the spouses of owners of real property within the corporate limits of the town, and shall be registered voters of the town. Councilmen shall maintain a permanent residency in the town during their terms of office. (3-9-64, § 4.)

Section 17-5. Salary of mayor and councilmen.

(a) The mayor and each councilman may receive an annual salary which shall be equal for all councilmen. The mayor may receive a salary equal to the salary of a councilman or greater than that of a councilman.

(b) The salary of the mayor and councilmen may be established by a majority of the registered voters of the town present and voting on a salary question at the town convention held the first Monday in April, 1965, and every three years thereafter for the purpose of nominating candidates for the office of mayor and councilman as provided in section 17-27. The motion establishing a salary for the mayor and councilmen shall be voted upon prior to the nomination of candidates. The motion, if passed by a majority of the registered voters present and voting at such meeting making any change in the salary paid to the mayor and the several councilmen, either by way of increase or decrease, shall take effect only as to the members of the next succeeding council. The salary established shall not be changed during a term for which the mayor and councilmen were elected. (3-9-64, § 5.)

Section 17-6. Meetings.

The newly elected council shall meet at 7:30 P.M. on the first Monday following its election for the purpose of organization, after which the council shall meet regularly at such times as may be prescribed by its rules.

Special meetings shall be called by the clerk-treasurer upon the request of the mayor or a majority of the members of the council. All meetings of the council shall be open to the public, and the rules of the council shall provide that residents of the town shall have a reasonable opportunity to be heard at any meeting in regard to any municipal question. (3-9-64, § 6.)

Section 17-7. Council to be judge of qualifications of its members.

The council shall be the judge of the election, and the qualifications, contained in sections 17-4 and 17-16, of its members. (3-9-64, § 7.)



Section 17-8. President.

The mayor shall serve as president of the council and shall preside at all meetings. The mayor shall have the power to veto any ordinance or resolution, and on all other matters, in case of tie, shall have the deciding vote. He may take part in all discussions before the council. The council shall elect a president pro tempore of the council from among its members who shall act as president of the council in the absence of the mayor. (3-9-64, § 8.)

Section 17-9. Quorum.

A majority of the members of the council shall constitute a quorum for the transaction of business, but no ordinance shall be approved without the favorable votes of a majority of the whole number of members elected to the council. (3-9-64, § 9.)

Section 17-10. Rules of procedure.

The council shall determine its own rules and order of business. It shall keep a journal of its proceedings and enter therein the yeas and nays upon final action on any question, resolution or ordinance, or at any other time if required by any one member. The journal shall be open to public inspection. (3-9-64, § 10.)

Section 17-11. Filling vacancies.

In case of a vacancy in the office of councilman for any reason, the council shall elect some person who possesses the qualifications contained in section 17-4 to fill the vacancy for the remainder of the unexpired term. Any vacancy shall be filled by the favorable votes of a majority of the remaining members of the council, and the results of such vote shall be recorded in the minutes of the council. (3-9-64, § 11.)

Section 17-12. Ordinances—Generally.

An ordinance may be passed at the meeting at which it is introduced. Each ordinance shall become effective on the date specified in the ordinance, but no ordinance shall become effective until approved by the mayor or passed over his veto by the council. A fair summary of each ordinance shall be published at least once in a newspaper of general circulation in the municipality. (3-9-64, § 12.)

Section 17-13. Same—Approval or disapproval by mayor.

All ordinances passed by the council shall be promptly delivered by the clerk-treasurer to the mayor for his approval or disapproval. If the mayor approves any ordinance, he shall sign it. If the mayor disapproves any ordinance he shall not sign it. The mayor shall return all ordinances to the clerk-treasurer within thirty-two days after delivery to him (including the days of delivery and return and excluding Sunday) with his approval or disapproval. Any ordinance approved by the mayor shall be law. Any ordinance disapproved by the mayor shall be returned with a message stating the reasons for his disapproval. Any disapproved ordinance shall not become a

law unless subsequently passed by a favorable vote of a majority of the elected members of the council within sixty-five calendar days from the time of the return of the ordinance. If the mayor fails to return any ordinance within thirty-two days of its delivery as aforesaid, it shall be deemed to be approved by the mayor and shall become law in the same manner as an ordinance signed by him. (3-9-64, § 13.)

Section 17-14. Same—Filing.

Ordinances shall be permanently filed by the clerk-treasurer and shall be kept available for public inspection. (3-9-64, § 14.)

### **ARTICLE III**

#### **Mayor**

Section 17-15. Selection; term.

The Mayor shall be elected as hereinafter provided and shall hold office for a term of three years or until his successor is elected and qualified. The newly elected mayor shall take office on the first Monday following his election. The burgess holding office at the time this Charter becomes effective (See note (1)) shall continue to hold office for the term for which he was elected and until his successor takes office under the provisions of this Charter. (3-9-64, § 15.)

Section 17-16. Qualifications.

The mayor shall be at least twenty-five years of age, shall have resided in the Town for at least six months immediately preceding his election, shall be the owner or the spouse of an owner of real property within the corporate limits of the town, and shall be a registered voter in the town. The mayor shall maintain a permanent residence in the town during his term of office. (3-9-64, § 16.)

Section 17-17. Filling vacancy in office.

In case of a vacancy in the office of mayor for any reason, the council shall elect some person who possesses the qualifications contained in section 17-16 to fill the vacancy for the remainder of the unexpired term. Any vacancy shall be filled by the favorable votes of a majority of the remaining members of the council, and the results of such vote shall be recorded in the minutes of the council. (3-9-64, § 17.)

Section 17-18. Powers and duties.

(a) The Mayor shall see that the ordinances of the town are faithfully executed and shall be the chief executive officer, and the head of the administrative branch of the town government.

(b) The mayor, with the approval of the council, shall appoint all officers of the town government as established by this Charter or by ordinance. All officers shall serve at the pleasure of the mayor. All employees of the town government shall be appointed and removed by the mayor.

(c) The mayor each year shall report to the council the condition of municipal affairs and make such recommendations as he deems proper for the public good and the welfare of the town.

(d) The mayor shall have the power to veto ordinances passed by the council as provided in section 17-13.

(e) The mayor shall have complete supervision over the financial administration of the town government. He shall prepare or have prepared annually a budget and submit it to the council. He shall supervise the administration of the budget as adopted by the council. He shall supervise the disbursement of all monies and have control over all expenditures to assure that budget appropriations are not exceeded.

(f) The mayor shall have such other powers and perform such other duties as may be prescribed by this Charter or as may be required of him by the council, not inconsistent with this Charter. (3-9-64, § 18.)

## ARTICLE IV General Powers

### Section 17-19. Powers of council enumerated.

The council shall have the power to pass all such ordinances not contrary to the Constitution and laws of the State of Maryland or this Charter as it may deem necessary for the good government of the town; for the protection and preservation of the town's property, rights and privileges; for the preservation of peace and good order; for securing persons and property from violence, danger or destruction; and for the protection and promotion of the health, safety, comfort, convenience, welfare and happiness of the residents of the town and visitors thereto and sojourners therein.

The council shall have, in addition, the power to pass ordinances not contrary to the Constitution and laws of the State of Maryland for the following specific purposes:

(1) *Advertising.* To provide for advertising for the purposes of the town, for printing and publishing statements as to the business of the town.

(2) *Aisles.* To regulate and prevent the obstruction of aisles in public halls, churches and places of amusement, and to regulate the construction and operation of the doors and means of egress therefrom.

(3) *Amusements.* To provide in the interest of the public welfare for licensing, regulating or restraining theatrical or other public amusements.

(4) *Appropriations.* To appropriate municipal monies for any purpose within the powers of the council.

(5) *Band.* To establish a municipal band or other musical organization, and to regulate by ordinance the conduct and policies thereof.

(6) *Billboards.* To license and regulate, restrain or prohibit the erection or maintenance of billboards within the city, the placing of signs, bills and posters of every kind and description on any building, fence, post, billboard, pole, or other place within the town.

(7) *Bridges.* To erect and maintain bridges.

(8) *Buildings.* To make reasonable regulations in regard to buildings and signs to be erected, constructed or reconstructed in the town, and to grant building permits for the same; to formulate a building code and a plumbing code and to appoint a building inspector and a plumbing inspector, and to require reasonable charges for permits and inspections; to authorize and require the inspection of all buildings and structures and to authorize the condemnation thereof in whole or in part when dangerous or insecure, and to require that such buildings and structures be made safe or be taken down.

(9) *Cemeteries.* To regulate or prohibit the interment of bodies within the municipality and to regulate cemeteries.

(10) *Codification.* To provide for the codification of all ordinances which have been or may hereafter be passed.

(11) *Community services.* To provide, maintain and operate community and social services for the preservation and promotion of the health, recreation, welfare and enlightenment of the inhabitants of the town.

(12) *Cooperative activities.* To make agreements with other municipalities, counties, districts, bureaus, commissions and governmental authorities for the joint performance of or for cooperation in the performance of any governmental functions.

(13) *Curfew.* To prohibit the youth of the town from being in the streets, lanes, alleys or public places at unreasonable hours of the night.

(14) *Dangerous conditions.* To compel persons about to undertake dangerous improvements to execute bonds with sufficient sureties conditioned that the owner or contractor will pay all damages resulting from such work which may be sustained by any persons or property.

(15) *Disorderly houses.* To suppress bawdy houses, disorderly houses and houses of ill fame.

(16) *Dogs.* To regulate the keeping of dogs in the town and to provide, wherever the county does not license or tax dogs, for the licensing and taxing of the same; to provide for the disposition of homeless dogs and dogs on which no license fee or taxes are paid.

(17) *Explosives.* To regulate or prevent the storage of gunpowder, oil or any other explosive or combustible matter; to regulate or prevent the use of firearms, fireworks, bonfires, explosives or any other similar things which may endanger persons or property.

(18) *Filth.* To compel the occupant of any premises, building or outhouse situated in the town, when the same has become filthy or unwholesome, to abate or cleanse the condition; and after reasonable notice to the owners or occupants to authorize such work to be done by the proper officers and to assess the expense thereof against such property, making it collectible by taxes or against the occupant or occupants.

(19) *Finances.* To levy, assess and collect ad valorem property taxes; to expend municipal funds for any public purpose; to have general management and control of the finances of the town.

(20) *Fire.* To suppress fires and prevent the dangers thereof and to establish and maintain a fire department; to contribute funds to volunteer fire companies serving the town; to inspect buildings for the purpose of reducing fire hazards; to issue regulations concerning fire hazards, and to forbid and prohibit the use of fire-hazardous buildings and structures permanently or until the conditions of town fire-hazard regulations are met; to install and maintain fire plugs where and as necessary, and to regulate their use; and to take all other measures necessary to control and prevent fires in the town.

(21) *Food.* To inspect and to require the condemnation of, if unwholesome, and to regulate the sale of, any food products.

(22) *Franchises.* To grant and regulate franchises to water companies, electric light companies, gas companies, telegraph and telephone companies, transit companies, taxicab companies and any others which may be deemed advantageous and beneficial to the town, subject, however, to the limitations and provisions of article 23 of the Annotated Code of Maryland. No franchise shall be granted for a longer period than fifty years.

(23) *Gambling.* To restrain and prohibit gambling.

(24) *Garbage.* To prevent the deposit of any unwholesome substance either on private or public property, and to compel its removal to designated points; to require slops, garbage, ashes and other waste or other unwholesome materials to be removed to designated points, or to require the occupants of the premises to place them conveniently for removal.

(25) *Grants-in-aid.* To accept gifts and grants of federal or of state funds from the federal or state governments or any agency thereof, and to expend the same for any lawful public purpose, agreeably to the conditions under which the gifts or grants were made.

(26) *Hawkers.* To license, tax, regulate, suppress and prohibit hawkers and itinerant dealers, peddlers, pawnbrokers and all other persons selling any articles on the streets of the town, and to revoke such licenses for cause.

(27) *Health.* To protect and preserve the health of the town and its inhabitants; to appoint a public health officer, and to define and regulate his powers and duties; to prevent the introduction of contagious diseases into the town; to establish quarantine regulations and to authorize the removal and confinement of persons having contagious or infectious diseases; to prevent and remove all nuisances; to inspect, regulate and abate any buildings, structures or places which cause or may cause unsanitary conditions or conditions detrimental to health; provided, that nothing herein shall be construed to affect in any manner any of the powers and duties of the state board of health, the county board of health or any public general or local law relating to the subject of health.

(28) *House numbers.* To regulate the numbering of houses and lots and to compel owners to renumber the same or in default thereof to authorize and require the same to be done by the town at the owner's expense, such expense to constitute a lien upon the property collectible as tax monies.

(29) *Jail.* To establish and regulate a station house or lock-up for temporary confinement of violators of the laws and ordinances of the town or to use the county jail for such purpose.

(30) *Licenses.* Subject to any restriction imposed by the public general laws of the state, to license and regulate all persons beginning or conducting transient or permanent business in the town for the sale of any goods, wares, merchandise or services, to license and regulate any business, occupation, trade, calling or place of amusement or business; to establish and collect fees and charges for all licenses and permits issued under the authority of this Charter.

(31) *Liens.* To provide that any valid charges, taxes or assessments made against any real property within the town shall be liens upon such property, to be collected as municipal taxes are collected.

(32) *Lights.* To provide for the lighting of the town.

(33) *Livestock.* To regulate and prohibit the running at large of cattle, horses, swine, fowl, sheep, goats, dogs or other animals; to authorize the impounding, keeping, sale and redemption of such animals when found in violation of the ordinance in such cases provided.

(34) *Markets.* To obtain by lease or rent, own, construct, purchase, operate and maintain public markets within the town.

(35) *Minor privileges.* To regulate or prevent the use of public ways, sidewalks and public places for signs, awnings, posts, steps, railings, entrances, racks, posting handbills and advertisements, and display of goods, wares and merchandise.

(36) *Noise.* To regulate or prohibit unreasonable ringing of bells, crying of goods or sounding of whistles and horns.

(37) *Nuisances.* To prevent or abate by appropriate ordinance all nuisances in the town which are so defined at common law, by this Charter or by the laws of the State of Maryland, whether the same be herein specifically named or not; to regulate, to prohibit, to control the location of or to require the removal from the town of all trading in, handling of or manufacture of any commodity which is or may become offensive, obnoxious or injurious to the public comfort or health. In this connection the town may regulate, prohibit, control the location of or require the removal from the town of such things as stockyards, slaughterhouses, cattle or hog pens, tanneries and renderies. This listing is by way of enumeration, not limitation.

(38) *Obstructions.* To remove all nuisances and obstructions from the streets, lanes and alleys and from any lots adjoining thereto, or any other places within the limits of the town.

(39) *Parking facilities.* To license and regulate and to establish, obtain by purchase, by lease or by rent, own, construct, operate and maintain parking lots and other facilities for off street parking.

(40) *Parking meters.* To install parking meters on the streets and public places of the town in such places as they shall by ordinance determine, and by ordinance to prescribe rates and provisions for the use thereof, except that the installation of parking meters on any street or road maintained by the state roads commission of Maryland must first be approved by the commission.

(41) *Parks and recreation.* To establish and maintain public parks, gardens, playgrounds and other recreational facilities and programs to promote the health, welfare and enjoyment of the inhabitants of the town.

(42) *Police force.* To establish, operate and maintain a police force. All town policemen shall, within the municipality, have the powers and authority of constables in this state.

(43) *Police powers.* To prohibit, suppress and punish within the town all vice, gambling and games of chance; prostitution and solicitation therefor and the keeping of bawdy houses and houses of ill fame; all tramps and vagrants; all disorder, disturbances, annoyances, disorderly conduct, obscenity, public profanity and drunkenness.

(44) *Property.* To acquire by conveyance, purchase or gift, real or leaseable property for any public purposes; to erect buildings and structures thereon for the benefit of the town and its inhabitants; and to convey any real or leasehold property when no longer needed for the

public use, after having given at least twenty days' public notice of the proposed conveyance; to control, protect and maintain public buildings, grounds and property of the town.

(45) *Quarantine.* To establish quarantine regulations in the interests of the public health.

(46) *Regulations.* To adopt by ordinance and enforce within the corporate limits police, health, sanitary, fire, building, plumbing, traffic, speed, parking and other similar regulations not in conflict with the laws of the State of Maryland or with this Charter.

(47) *Sidewalks.* To regulate the use of sidewalks and all structures in, under or above the same; to require the owner or occupant of premises to keep the sidewalks in front thereof free from snow or other obstructions; to prescribe hours for cleaning sidewalks.

(48) *Sweepings.* To regulate or prevent the throwing or depositing of sweepings, dust, ashes, offal, garbage, paper, handbills, dirty liquids or other unwholesome materials into any public way or onto any public or private property in the town.

(49) *Taxicabs.* To license, tax and regulate public hackmen, taxicab men, draymen, drivers, cabmen, porters and expressmen and all other persons pursuing like occupations.

(50) *Vehicles.* To regulate and license wagons and other vehicles not subject to the licensing powers of the State of Maryland.

(51) *Voting machines.* To purchase, lease, borrow, install and maintain voting machines for use in town elections.

(52) *Zoning.* To exercise the powers as to planning and zoning, conferred upon municipal corporations generally in Article 66B of the Annotated Code of Maryland, subject, however, to the limitations and provisions of such article.

The enumeration of powers in this section is not to be construed as limiting the powers of the town to the several subjects mentioned. (3-9-64, § 19.)

#### Section 17-20. Exercise of powers.

For the purpose of carrying out the powers granted in this article or elsewhere in this Charter, the council may pass all necessary ordinances. All the powers of the town shall be exercised in the manner prescribed by this Charter, or, if the manner be not prescribed, then in such manner as may be prescribed by ordinance. ( 3-9-64, § 20.)

#### Section 17-21. Enforcement of ordinances.

To ensure the observance of the ordinances of the town, the council shall have the power to provide that violation thereof shall be a misdemeanor and shall have the power to affix thereto penalties of a fine not exceeding one hundred dollars or imprisonment for not exceeding thirty



days, or both such fine and imprisonment. Any person subject to any fine, forfeiture or penalty by virtue of any ordinance passed under the authority of this Charter shall have the right of appeal within thirty days to the circuit court of the county in which the fine, forfeiture or penalty was imposed. The council may provide that, where the violation is of a continuing nature and is persisted in, a conviction for one violation shall not be a bar to a conviction for a continuation of the offense subsequent to the first or any succeeding conviction. (3-9-64, § 21.)

## **ARTICLE V**

### **Elections**

#### Section 17-22. Qualifications of voters.

Every person who (a) is a citizen of the United States, (b) is at least twenty-one years of age, (c) has resided in the State of Maryland for at least one year next preceding any town election, (d) has resided within the corporate limits of the town for six months next preceding any town election, and (e) is registered in accordance with the provisions of this Charter, shall be a registered voter of the town. Every registered voter of the town shall be entitled to vote at any or all town elections. (3-9-64, § 22.)

#### Section 17-23. Duties of clerk-treasurer.

The clerk-treasurer shall be in charge of the registration of voters, nominations and all town elections. The mayor and council may appoint election clerks or other employees to assist the clerk-treasurer in any of his duties. (3-9-64, § 23.)

#### Section 17-24. Notice of registration and election days.

The clerk-treasurer shall give at least two weeks' notice of every registration day and every election by an advertisement published in at least one newspaper of general circulation in the town and by posting a notice thereof in some public place or places in the town. (3-9-64, § 24.)

#### Section 17-25. Registration of voters—Generally.

There shall be a registration on the first Monday in May and on the first Monday in June in every election year, of qualified persons not registered to vote. If necessary for the performance of registration or the convenience of the citizens of the town, the mayor may designate additional days as registration days. Registration shall be permanent, and no person shall be entitled to vote in town elections unless he is registered. It shall be the duty of the clerk-treasurer to keep the registration lists up to date by striking from the lists persons known to have died or to have moved out of the town. The council is hereby authorized and directed, by ordinance, to adopt and enforce any provisions necessary to establish and maintain a system of permanent registration, and to provide for a re-registration when necessary. (3-9-64, § 25.)

Section 17–26. Same—Appeals by aggrieved persons.

If any person shall feel aggrieved by the action of the clerk–treasurer in refusing to register or in striking off the name of any person or by any other action, such person may appeal to the council. Any decision or action of the council upon such appeals may be appealed to the circuit court for Frederick County within thirty days of the decision or action of the council. (3–9–64, § 26.)

Section 17–27. Nominations of candidates.

(a) Candidates for town elections shall be chosen at a town convention held on the first Monday in May of every election year.

(b) Only registered voters of the town may participate in the town convention.

(c) The procedure of the town convention shall be as follows:

(1) The mayor shall act as temporary chairman of the town convention and call the convention to order. The first order of business of the convention shall be the election of a convention chairman who shall be a registered voter of the town, and who shall be elected by a majority of the registered voters present and voting on the question.

(2) The convention chairman shall then receive nominations from the convention assembled for the office of mayor.

a. If not more than two names have been placed in nomination there shall be no balloting at the convention for candidates for mayor. In such instances those nominated for mayor shall be considered as nominees and their names shall be placed on the ballots or voting machines at the general election on the first Monday in June.

b. If more than two persons have been nominated by the convention assembled for the office of mayor, the convention shall ballot, either by a show of hands or by paper ballot, and the two nominees receiving the highest number of votes cast shall be named and considered as nominees and their names shall be placed on the ballot or voting machines at the general election on the first Monday in June.

c. In the event only one person is nominated for the office of mayor by the convention assembled, the chairman shall declare the nominee nominated and elected, and shall so certify the nomination and election of the mayor to the mayor and council, and at the general election on the first Monday in June no name shall appear on the ballot to be voted on for mayor, and the mayor shall take office on the second Monday in June.

(3) The convention chairman shall then receive nominations from the convention assembled for the office of councilman.

a. If not more than six names have been placed in nomination there shall be no balloting at the convention for candidates for councilmen. In such instances those nominated for councilmen shall be considered as nominees, and their names shall be placed on the ballots or voting machines at the general election on the first Monday in June.

b. If more than six persons have been nominated by the convention assembled for the office of councilman, the convention shall ballot—either by a show of hands or by paper ballot; and the six nominees receiving the highest number of votes cast shall be named and considered as nominees and their names shall be placed on the ballots or voting machines at the general election on the first Monday in June.

c. In the event only three persons are nominated for the office of councilman by the convention assembled, the chairman shall declare the three nominees nominated and elected, and shall so certify the nomination and election of the councilmen to the mayor and council, and at the general election on the first Monday in June no names shall appear on the ballot to be voted on for councilmen, and the councilmen shall take office on the second Monday in June.

(4) Only those persons who meet the qualifications for mayor and councilmen as provided for by the provisions of this Charter may be placed in nomination by the convention assembled. A qualified person's name may be placed in nomination by a motion from the floor of the convention assembled and properly seconded from the floor of the convention. (3-9-64, § 27.)

#### Section 17-28. Election of mayor and councilmen.

On the first Monday in June, 1965, and every three years thereafter, the registered voters of the town shall elect one person as mayor and three persons as councilmen to serve for terms of three years. In the event only one person is nominated for mayor and only three persons are nominated for councilmen, there shall be no general election on the first Monday in June, and the mayor and three councilmen nominated by the convention and declared elected by the convention chairman shall take office on the second Monday in June. (3-9-64, § 28.)

#### Section 17-29. Conduct of elections.

It shall be the duty of the clerk-treasurer to provide for each special and general election a suitable place or places for voting and suitable ballot boxes and ballots or voting machines. The ballots or voting machines shall show the name of each candidate nominated for elective office in accordance with the provisions of this Charter, arranged in alphabetical order by office with no party designation of any kind. The clerk-treasurer shall keep the polls open from 2:00 P.M. to 7:00 P.M. on election days or for longer hours if the council requires it. (3-9-64, § 29.)

#### Section 17-30. Special elections.

All special town elections shall be conducted by the clerk-treasurer in the same manner and with the same personnel, as far as practicable, as regular town elections. (3-9-64, § 30.)

Section 17-31. Vote count.

Within forty-eight hours after the closing of the polls, the clerk-treasurer shall determine the vote cast for each candidate or question and shall certify the results of the election to the mayor of the town who shall have the result recorded in the minutes of the council. The candidate for mayor with the highest number of votes in the general election shall be declared elected as mayor, the three candidates for councilman with the highest number of votes in the general election shall be declared elected as councilmen. (3-9-64, § 31.)

Section 17-32. Preservation of ballots.

All ballots used in any town election shall be preserved for at least sixty days from the date of the election. (3-9-64, § 32.)

Section 17-33. Regulation and control.

The council shall have the power to provide by ordinance in every respect not covered by the provisions of this Charter for the conduct of registration, nomination and town elections and for the prevention of fraud in connection therewith, and for a recount of ballots in case of doubt or fraud. (3-9-64, § 33.)

Section 17-34. Penalties.

Any person who (a) fails to perform any duty required of him under the provisions of this article or any ordinances passed thereunder, (b) in any manner wilfully or corruptly violates any of the provisions of this article or any ordinances passed thereunder, or (c) wilfully or corruptly does anything which will or will tend to affect fraudulently any registration, nomination or town election, shall be deemed guilty of a misdemeanor. Any officer or employee of the town government who is convicted of a misdemeanor under the provisions of this section shall immediately upon conviction thereof cease to hold such office or employment. (3-9-64, § 34.)

## **ARTICLE VI**

### **Finance and Taxation**

Section 17-35. Fiscal year.

Effective July 1, 1964, the fiscal year of the town shall begin on the first day of July and shall end on the last day of June in each year. Such fiscal year shall constitute the tax year, the budget year and the accounting year. The mayor and council shall have the power to authorize a six-months budget, six-months tax period and six-months accounting period or such other partial financial period as may be necessary to effect the transition from the present calendar year to a fiscal year. (3-9-64, § 35.)

Section 17-36. Budget—Generally.

The mayor, on such date as the council shall determine, but at least thirty-two days before the beginning of any fiscal year, shall submit a budget to the council. The budget shall provide a complete financial plan for the budget year and shall contain estimates of anticipated revenues and proposed expenditures for the coming year. The total of the anticipated revenues shall equal or exceed the total of the proposed expenditures. The budget shall be a public record in the office of the clerk-treasurer, open to public inspection by anyone during normal business hours. (3-9-64, § 36.)

Section 17-37. Same—Adoption.

The budget shall be adopted by the council at a regular meeting open for the public.

The council may insert new items or may increase or decrease the items of the budget. Where the council shall increase the total proposed expenditures it shall also increase the total anticipated revenues in an amount at least equal to such total proposed expenditures. The budget shall be prepared and adopted in the form of an ordinance. A favorable vote of at least a majority of the total elected membership of the council shall be necessary for adoption. (3-9-64, § 37.)

Section 17-38. Appropriations.

No public money may be expended without having been appropriated by the council. From the effective date of the budget, the several amounts stated therein as proposed expenditures shall be and become appropriated to the several objects and purposes named therein. (3-9-64, § 38.)

Section 17-39. Transfer of funds.

Any transfer of funds between major appropriations for different purposes by the mayor must be approved by the council before becoming effective. (3-9-64, § 39.)

Section 17-40. Overexpenditures prohibited.

No officer or employee shall during any budget year expend or contract to expend any money or incur any liability or enter into any contract which by its terms involves the expenditure of money for any purpose, in excess of the amounts appropriated for or transferred to that general classification of expenditure pursuant to this Charter. Any contract, verbal or written, made in violation of this Charter shall be null and void. Nothing in this section contained, however, shall prevent the making of contracts or the spending of money for capital improvements to be financed in whole or in part by the issuance of bonds, nor the making of contracts of lease or for services for a period exceeding the budget year in which such contract is made, when such contract is permitted by law. (3-9-64, § 40.)

Section 17-41. Lapse of appropriations.

All appropriations shall lapse at the end of the budget year to the extent that they shall not have been expended or lawfully encumbered. Any unexpended and unencumbered funds shall be considered a surplus at the end of the budget year and shall be included among the anticipated revenues for the next succeeding budget year. (3-9-64, § 41.)

Section 17-42. Checks.

All checks issued in payment of salaries or other municipal obligations shall be issued and signed by the clerk-treasurer and shall be countersigned by the mayor. (3-9-64, § 42.)

Section 17-43. Property taxes—Taxable property.

All real property and all tangible personal property within the corporate limits of the town, or personal property which may have a situs there by reason of the residence of the owner therein, shall be subject to taxation for municipal purposes, and the assessment used shall be the same as that for state and county taxes. No authority is given by this section to impose taxes on any property which is exempt from taxation by any act of the General Assembly. (3-9-64, § 43.)

Section 17-44. Same—Amount of levy.

From the effective date of the budget, the amount stated therein as the amount to be raised by the property tax shall constitute a determination of the amount of the tax levy in the corresponding tax year. (3-9-64, § 44.)

Section 17-45. Same—Notice of levy.

Immediately after the levy is made by the council in each year, the clerk-treasurer shall give notice of the making of the levy by posting a notice thereof in some public place or places in the town. He shall make out and mail or deliver in person to each taxpayer or his agent at his last-known address a bill or account of the taxes due from him. This bill or account shall contain a statement of the amount of real and personal property with which the taxpayer is assessed, the rate of taxation, the amount of taxes due and the date on which the taxes will bear interest. Failure to give or receive any notice required by this section shall not relieve any taxpayer of the responsibility to pay on the dates established by this Charter all taxes levied on his property. (3-9-64, § 45.)

Section 17-46. Same—When taxes are overdue.

The taxes provided for in section 17-44 shall be due and payable on the first day of July in the year for which they are levied and shall be overdue and in arrears on the first day of the following October. They shall bear interest while in arrears at the rate of one-half of one per centum for each month or fraction of a month until paid. All taxes not paid and in arrears after the first day of the following January shall be collected as provided in section 17-47. (3-9-64, § 46.)

Section 17-47. Same—Sale of tax delinquent property.

A list of all property on which the town taxes have not been paid and which are in arrears as provided by section 17-46 shall be turned over by the clerk-treasurer to the official of Frederick County responsible for the sale of tax delinquent property as provided in state law. All property listed thereon shall if necessary be sold for taxes by this county official, in the manner prescribed by state law. (3-9-64, § 47.)

Section 17-48. Disposition of fees collected.

All fees received by an officer or employee of the town government in his official capacity shall belong to the town government and be accounted for to the town. (3-9-64, § 48.)

Section 17-49. Audit.

The financial books and accounts of the town shall be audited annually by a qualified accountant selected by the council. (3-9-64, § 49.)

Section 17-50. Borrowing money—Tax anticipation borrowing.

During the first six months of any fiscal year, the town shall have the power to borrow in anticipation of the collection of the property tax levied for that fiscal year, and to issue tax anticipation notes or other evidences of indebtedness as evidence of such borrowing. Such tax anticipation notes or other evidences of indebtedness shall be a first lien upon the proceeds of such tax and shall mature and be paid not later than six months after the beginning of the fiscal year in which they are issued. No tax anticipation notes or other evidences of indebtedness shall be issued which will cause the total tax anticipation indebtedness of the town to exceed fifty per centum of the property tax levy for the fiscal year in which such notes or other evidences of indebtedness are issued. All tax anticipation notes or other evidences of indebtedness shall be authorized by ordinance before being issued. The council shall have the power to regulate all matters concerning the issuance and sale of tax anticipation notes. (3-9-64, § 50.)

Section 17-51. Same—Authorization.

The town shall have the power to borrow money for any proper public purpose and to evidence such borrowing by the issue and sale of its general obligation bonds, notes or other evidences of indebtedness in the manner prescribed in sections 31 to 37, both inclusive, of article 23A of the Annotated Code of the Public General Laws of Maryland (1957 edition, as amended) title “Municipal Corporations,” subtitle “Creation of Municipal Public Debt.” Provided, however, that the total amount of any bonds, notes or other evidences of indebtedness outstanding at any time shall not exceed ten per centum of the assessed valuation of all real and personal property in the town as appears on the assessed records of Frederick County. Provided, further, however that bonds, notes or other evidences of indebtedness in excess of the ten per centum limitation may be issued only after being submitted to a referendum and approved by a majority of the registered voters voting on the question. (3-9-64, § 51.)

Section 17-52. Same—Payment of indebtedness.

The power and obligation of the town to pay any and all bonds, notes or other evidences of indebtedness issued by it under the authority of this Charter shall be unlimited and the town shall levy ad valorem taxes upon all the taxable property of the town for the payment of such bonds, notes or other evidences of indebtedness and interest thereon, without limitation of amount. The faith and credit of the town is hereby pledged for the payment of the principal of and the interest on all bonds, notes or other evidences of indebtedness, hereafter issued under the authority of this Charter, whether or not such pledge be stated in the bonds, notes or other evidences of indebtedness, or in the ordinance authorizing their issuance. (3-9-64, § 52.)

Section 17-53. Same—Existing issues.

All bonds, notes or other evidences of indebtedness validly issued by the town previous to the effective date of this Charter (See note (1)) and all ordinances passed concerning them are hereby declared to be valid, legal and binding and of full force and effect as if herein fully set forth. (3-9-64, § 53.)

Section 17-54. Purchasing and contracts.

All purchases and contracts for the town government shall be made by the clerk-treasurer. The council may provide by ordinance for rules and regulations regarding the use of competitive bidding and contracts for all town purchases and contracts. All expenditures for supplies, materials, equipment, construction of public improvements or contractual service involving more than five hundred dollars shall be made on written contract. The clerk-treasurer shall be required to advertise for sealed bids, in such manner as may be prescribed by ordinance, for all such written contracts. Such written contracts shall be awarded to the bidder who offers the lowest or best bid, quality of goods and work, time of delivery or completion, and responsibility of bidders being considered. All such written contracts shall be approved by the council before becoming effective. The clerk-treasurer by direction of the mayor and council shall have the right to reject all bids and readvertise. The town at any time in its discretion may employ its own forces for the construction or reconstruction of public improvements without advertising for (or readvertising for) or receiving bids. All written contracts may be protected by such bonds, penalties and conditions as the town may require. Provided that contracts involving professional services such as accounting, architecture, auditing, engineering, law, planning and surveying, shall not be on a bid basis, but shall be negotiated by the council. (3-9-64, § 54.)

## ARTICLE VII

### Personnel

Section 17-55. Clerk-treasurer.

(a) There shall be a clerk-treasurer appointed by the mayor with the approval of the council. He shall serve at the pleasure of the mayor, and his compensation shall be determined by



the council. The clerk–treasurer shall be the financial officer of the town. The financial powers of the town, except as otherwise provided by this Charter, shall be exercised by the clerk–treasurer under the direct supervision of the mayor.

(b) Under the supervision of the mayor, the clerk–treasurer shall have authority and shall be required to:

(1) Prepare under the direction of the mayor an annual budget to be submitted for the mayor to the council.

(2) Supervise and be responsible for the disbursement of all moneys and have control over all expenditures to assure that budget appropriations are not exceeded.

(3) Maintain a general accounting system for the town in such form as the council may require, not contrary to state law.

(4) Submit at the end of each fiscal year, and at such other times as the council may require, a complete financial report to the council through the mayor.

(5) Ascertain that all taxable property within the town is assessed for taxation.

(6) Collect all taxes, special assessments, license fees, liens and all other revenues (including utility revenues) of the town, and all other revenues for whose collection the town is responsible, and receive any funds receivable by the town.

(7) Have custody of all public moneys, belonging to or under the control of the town, except as to funds in the control of any set of trustees, and have custody of all bonds and notes of the town.

(8) Do such other things in relation to the fiscal or financial affairs of the town as the mayor or the council may require or as may be required elsewhere in this Charter.

(c) The clerk–treasurer shall serve as clerk to the council. He shall attend every meeting of the council and keep a full and accurate account of the proceedings of the council. He shall keep such other records and perform such other duties as may be required by this Charter or the council.

(d) The clerk–treasurer shall provide a bond with such corporate surety and in such amount as the council by ordinance may require. (3–9–64, § 55.)

#### Section 17–56. Town attorney.

The mayor with the approval of the council shall appoint a town attorney. The town attorney shall be a member of the bar of the Maryland court of appeals. The town attorney shall be the legal adviser of the town and shall perform such duties in this connection as may be required by the council or the mayor. His compensation shall be determined by the council. The

town shall have the power to employ such legal consultants as it deems necessary from time to time. (3-9-64, § 56.)

Section 17-57. Authority to employ personnel.

The town shall have the power to employ such officers and employees as it deems necessary to execute the powers and duties provided by this Charter or other state law and to operate the town government. (3-9-64, § 57.)

Section 17-58. Retirement system.

The town shall have the power to do all things necessary to include its officers and employees, or any of them, within any retirement system or pension system under the terms of which they are admissible, and to pay the employer's share of the cost of any such retirement or pension system out of the general funds of the town. (3-9-64, § 58.)

Section 17-59. Compensation of employees.

The compensation of all officers and employees of the town shall be set from time to time by a motion passed by the council, subject to the restrictions imposed upon establishing the salaries of the councilmen and mayor. (3-9-64, § 59.)

Section 17-60. Benefit programs for employees.

The town is authorized and empowered, by ordinance, to provide for or participate in hospitalization or other forms of benefit or welfare programs for its officers and employees, and to expend public monies of the town for such programs. (3-9-64, § 60.)

## **ARTICLE VIII**

### **Public Ways and Sidewalks**

Section 17-61. Public ways—Defined.

The term "public ways" as used in this Charter shall include all streets, avenues, roads, highways, public thoroughfares, lanes and alleys. (3-9-64, § 61.)

Section 17-62. Same—Control by town.

The town shall have control of all public ways in the town except such as may be under the jurisdiction of the state roads commission of Maryland or Frederick County. Subject to the laws of the State of Maryland and this Charter, the town may do whatever it deems necessary to establish, operate and maintain in good condition the public ways of the town. (3-9-64, § 62.)

Section 17–63. Same—Powers of town relative thereto.

The town shall have the powers:

- (a) To establish, regulate and change from time to time the grade lines, width and construction materials of any town public way or part thereof, bridges, curbs and gutters.
- (b) To grade, lay out, construct, open, extend and make new town public ways.
- (c) To grade, straighten, widen, alter, improve or close up any existing town public way or part thereof.
- (d) To pave, surface, repave or resurface any town public way or part thereof.
- (e) To install, construct, reconstruct, repair and maintain curbs or gutters along any town public way or part thereof.
- (f) To construct, reconstruct, maintain and repair bridges.
- (g) To name town public ways.
- (h) To have surveys, plans, specifications and estimates made for any of the above activities or projects or parts thereof. (3–9–64, § 63.)

Section 17–64. Powers of town relative to sidewalks.

The town shall have the power:

- (a) To establish, regulate and change from time to time the grade lines, width and construction materials of any sidewalk or part thereof on town property along any public way or part thereof.
- (b) To grade, lay out, construct, reconstruct, pave, repave, repair, extend or otherwise alter sidewalks on town property along any public way or part thereof.
- (c) To require that the owners of any property abutting on a sidewalk keep the sidewalk clear of all ice, snow and other obstructions.
- (d) To require and order the owner of any property abutting on any public way in the town to perform any projects authorized by this section at the owner's expense according to reasonable plans and specifications. If, after due notice, the owner fails to comply with the order within a reasonable time, the town may do the work, and the expense shall be a lien on the property and shall be collectible in the same manner as are town taxes or by suit at law. (3–9–64, § 64.)

## ARTICLE IX Water and Sewers

### Section 17-65. Powers of town generally.

The town shall have the power:

- (a) To construct, operate and maintain a water system and water plant.
- (b) To construct, operate and maintain a sanitary sewerage system and a sewage treatment plant.
- (c) To construct, operate and maintain a storm water drainage system and storm water sewers.
- (d) To construct, maintain, reconstruct, enlarge, alter, repair, improve or dispose of all parts, installations and structures of the above plants and systems.
- (e) To have surveys, plans, specifications and estimates made for any of the above plants and systems or parts thereof or the extension thereof.
- (f) To do all things it deems necessary for the efficient operation and maintenance of the above plants and systems. (3-9-64, § 65.)

### Section 17-66. Placing structures in public ways.

Any public service corporation, company or individual, before beginning any construction of or placing of or changing the location of any main, conduit, pipe or other structure in the public ways of the town, shall submit plans to the town and obtain written approval upon such conditions and subject to such limitations as may be imposed by the town. Any public service corporation, company or individual violating the provisions of this section shall be guilty of a misdemeanor. If any unauthorized main, conduit, pipe or other structure interferes with the operation of the water, sewerage or storm water systems, the town may order it removed. (3-9-64, § 66.)

### Section 17-67. Obstructions.

All individuals, firms or corporations having mains, pipes, conduits or other structures, in, on or over any public way in the town or in the county which impede the establishment, construction or operation of any town sewer or water main shall, upon reasonable notice, remove or adjust the obstructions at their own expense to the satisfaction of the town. If necessary to carry out the provisions of this section, the town may use its condemnation powers provided in section 17-81. Any violation of an ordinance passed under the provisions of this section may be made a misdemeanor. (3-9-64, § 67.)

Section 17-68. Entering on county public ways.

The town may enter upon or do construction in, on or over any county public way for the purpose of installing or repairing any equipment or doing any other things necessary to establish, operate and maintain the water system, water plant, sanitary sewerage system, sewage treatment plant or storm water sewers provided for in this Charter. Unless required by the county, the town need not obtain any permit or pay any charge for these operations, but it must notify the county of its intent to enter on the public way and must leave the public way in a condition not inferior to that existing before. (3-9-64, § 68.)

Section 17-69. Connections—Generally.

The town shall provide a connection with water and sanitary sewer mains for all property abutting on any public way in which a sanitary sewer or water main is laid. When any water main or sanitary sewer is declared ready for operation by the town, all abutting property owners after reasonable notice shall connect all fixtures with the water or sewer main. The town may require that, if it considers existing fixtures unsatisfactory, satisfactory ones be installed and may require that all cesspools, sink drains and privies be abandoned, filled, removed or left in such a way as not to injure public health. All wells found to be polluted or a menace to health may be abandoned and closed. Any violation of an ordinance passed under the provisions of this section may be made a misdemeanor. (3-9-64, § 69.)

Section 17-70. Same—Charge.

The town may make a charge, the amount to be determined by the council, for each connection made to the town's water or sewer mains. This charge shall be uniform throughout the town, but may be changed from year to year. Arrangements for the payment of this charge shall be made before the connection is made. (3-9-64, § 70.)

Section 17-71. Improper use.

In order to prevent any leakage or waste of water or other improper use of the town's water system or sewage disposal system, the town may require such changes in plumbing, fixtures or connections as it deems necessary to prevent such waste or improper use. (3-9-64, § 71.)

Section 17-72. Private systems.

The town may by ordinance provide that no water supply, sewerage or storm water drainage system, and no water mains, sewers, drains or connections therewith, shall be constructed or operated by any person or persons, firm, corporation, institution or community, whether upon private premises or otherwise, and may provide that cesspools or other private methods of sewage disposal shall be operated and maintained in such a manner that they do not and will not be likely to affect adversely the public comfort and health, and any cesspool or other private method of sewage disposal affecting or likely to affect adversely the public comfort and

health may be deemed a nuisance and may be abated by the town. Any violation of an ordinance passed under the provisions of this section may be made a misdemeanor. (3-9-64, § 72.)

Section 17-73. Extensions beyond town boundaries.

The town shall have the power to extend its water or sewerage systems beyond the town limits. (3-9-64, § 73.)

Section 17-74. Right of entry.

Any employee or agent of the town, while in the necessary pursuit of his official duties with regard to the water or sewage disposal systems operated by the town, shall have the right of entry, for access to water or sewer installations, at all reasonable hours, and after reasonable advance notice to the owner, tenant or person in possession, upon any premises and into any building in the town or in the county served by the town's water or sewage disposal system. Any restraint or hindrance offered to such entry by any owner, tenant or person in possession, or the agent of any of them, may, by ordinance, be made a misdemeanor. (3-9-64, § 74.)

Section 17-75. Pollution of water supply.

No person shall do anything which will discolor, pollute or tend to pollute any water used or to be used in the town water supply system. Any violation of the provisions of this section shall be a misdemeanor. (3-9-64, § 75.)

Section 17-76. Contracts for water or removal of sewage.

The town, if it deems it advisable, may contract with any party or parties, inside or outside the town, to obtain water or to provide for the removal of sewage. (3-9-64, § 76.)

Section 17-77. Charges.

The town shall have the power to charge and collect such service rates, water rents, ready-to-serve charges or other charges as it deems necessary for water supplied and for the removal of sewage. These charges are to be billed and collected by the clerk-treasurer, and if bills are unpaid within thirty days, the service may be discontinued. All charges shall be a lien on the property, collectible in the same manner as town taxes or by suit at law. (3-9-64, § 77.)

## **ARTICLE X**

### **Special Assessments**

Section 17-78. Powers of town generally.

The town shall have the power to levy and collect taxes in the form of special assessments upon property in a limited and determinable area for special benefits conferred upon such property by the installation or construction, of water mains, sanitary sewer main, storm

water sewers, curbs and gutters and by the construction, and paving of public ways and sidewalks or parts thereof, and to provide for the payment of all or any part of the above projects out of the proceeds of such special assessment. The cost of any project to be paid in whole or in part by special assessments may include the direct cost thereof, the cost of any land acquired for the project, the interest on bonds, notes or other evidences of indebtedness issued in anticipation of the collection of special assessments, a reasonable charge for the services of the administrative staff of the town, and any other item of cost which may reasonably be attributed to the project. (3-9-64, § 78.)

Section 17-79. Procedure.

The procedure for special assessments, wherever authorized in this Charter, shall be as follows:

(a) The cost of the project being charged for shall be assessed according to the front foot rule of apportionment or some other equitable basis determined by the council.

(b) The amount assessed against any property for any project or improvement shall not exceed the value of the benefits accruing to the property therefrom, nor shall any special assessment be levied which shall cause the total amount of special assessments levied by the town and outstanding against any property at any time, exclusive of delinquent installments, to exceed twenty-five per centum of the assessed value of the property after giving effect to the benefit accruing thereto from the project or improvement for which assessed.

(c) When desirable, the affected property may be divided into different classes to be charged different rates, but, except for this, any rate shall be uniform.

(d) All special assessment charges shall be levied by the council by ordinance. Before levying any special assessment charges, the council shall hold a public hearing. The clerk-treasurer shall cause notice to be given stating the nature and extent of the proposed project, the kind of materials to be used, the estimated cost of the project, the portion of the cost to be assessed, the number of installments in which the assessment may be paid, the method to be used in apportioning the cost, and the limits of the proposed area of assessment. The notice shall also state the time and place at which all persons interested, or their agents or attorneys, may appear before the council and be heard concerning the proposed project and special assessment. Such notice shall be given by sending a copy thereof by mail to the owner of record of each parcel of property proposed to be assessed and to the person in whose name the property is assessed for taxation and by publication of a copy of the notice at least once in a newspaper of general circulation in the town. The clerk-treasurer shall present at the hearing a certificate of publication and mailing of copies of the notice, which certificate shall be deemed proof of notice, but failure of any owner to receive the mailed copy shall not invalidate the proceedings. The date of hearing shall be set at least ten and not more than thirty days after the clerk-treasurer shall have completed publication and service of notice as provided in this section. Following the hearing the council, in its discretion, may vote to proceed with the project and may levy the special assessment.

(e) Any interested person feeling aggrieved by the levying of any special assessment under the provisions of this section shall have the right to appeal to the circuit court for Frederick County within thirty days after the levying of any assessment by the council.

(f) Special assessments may be made payable in annual or more frequent installments over such period of time, not to exceed forty years, and in such manner as the council may determine. The council shall determine on what date installments shall be due and payable. Interest may be charged on installments at the rate to be determined by the council.

(g) All special assessment installments shall be overdue six months after the date on which they became due and payable. All special assessments shall be liens on the property and all overdue special assessments shall be collected in the same manner as town taxes or by suit at law.

(h) All special assessments shall be billed and collected by the clerk–treasurer. (3–9–64, § 79.)

## **ARTICLE XI**

### **Town Property**

#### Section 17–80. Acquisition, possession and disposal.

The town may acquire real, personal or mixed property within or outside the corporate limits of the town for any public purpose by purchase, gift, bequest, devise, lease, condemnation or otherwise and may sell, lease or otherwise dispose of any property belonging to the town. All municipal property, funds and franchises of every kind belonging to or in the possession of the town. (by whatever prior name known) at the time this Charter becomes effective (See note (1)) are vested in the town, subject to the terms and conditions thereof. (3–9–64, § 80.)

#### Section 17–81. Condemnation.

The town shall have the power to condemn property of any kind, or interest therein or franchise connected therewith, in fee or as an easement, within or outside the corporate limits of the town, for any public purpose. Any activity, project or improvement authorized by the provisions of this Charter or any other state law applicable to the town shall be deemed to be a public purpose. The manner of procedure in case of any condemnation proceeding shall be that established in article 33A of the Annotated Code of the Public General Laws of Maryland (1957 edition, as amended), title “Eminent Domain.” (3–9–64, § 81.)

#### Section 17–82. Town buildings.

The town shall have the power to acquire, to obtain by lease or rent, to purchase, construct, operate and maintain all buildings and structures it deems necessary for the operation of the town government. (3–9–64, § 82.)



Section 17-83. Protection.

The town shall have the power to do whatever may be necessary to protect town property and to keep all town property in good condition. (3-9-64, § 83.)

## **ARTICLE XII**

### **General Provisions**

Section 17-84. Oath of office.

(a) Before entering upon the duties of their offices, the mayor, the councilmen, the clerk-treasurer and all other persons elected or appointed to any office of profit or trust in the town government shall take and subscribe the following oath or affirmation: "I, ....., do swear (or affirm, as the case may be), that I will support the Constitution of the United States; and that I will be faithful and bear true allegiance to the State of Maryland, and support the Constitution and Laws thereof; and that I will, to the best of my skill and judgment, diligently and faithfully, without partiality or prejudice, execute the office of ....., according to the Constitution and Laws of this State."

(b) The mayor shall take and subscribe this oath or affirmation before the clerk of the circuit court for Frederick County or before one of the sworn deputies of the clerk. All other persons taking and subscribing the oath shall do so before the mayor. (3-9-64, § 84.)

Section 17-85. Official bonds.

The clerk-treasurer and such other officers or employees of the town as the council or this Charter may require, shall give bond in such amount and with such surety as may be required by the council. The premiums on such bonds shall be paid by the town. (3-9-64, § 85.)

Section 17-86. Prior rights and obligations.

All right, title and interest held by the town or any other person or corporation at the time this Charter is adopted, (See note (2)) in and to any lien acquired under any prior Charter of the town, are hereby preserved for the holder in all respects as if this Charter had not been adopted, together with all rights and remedies in relation thereto. This Charter shall not discharge, impair or release any contract, obligation, duty, liability or penalty whatever existing at the time this Charter becomes effective. All suits and actions, both civil and criminal, pending, or which may hereafter be instituted for causes of action now existing or offenses already committed against any law or ordinance repealed by this Charter, shall be instituted, proceeded with and prosecuted to final determination and judgment as if this Charter had not become effective. (3-9-64, § 86.)

Section 17-87. Penalty for misdemeanors.

Every act or omission which is made a misdemeanor under the authority of this Charter, unless otherwise provided shall be punishable upon conviction before any trial magistrate or in

the circuit court for the county within which the offense is committed by a fine not exceeding one hundred dollars or imprisonment for thirty days in the county jail, or both, in the discretion of the court or trial magistrate. The party aggrieved shall have the right to appeal as is now provided under the general laws of the state. Where the act or omission is of a continuing nature and is persisted in, a conviction for one offense shall not be a bar to a conviction for a continuation of the offense subsequent to the first or any succeeding conviction. (3-9-64, § 87.)

Section 17-88. Effect on existing ordinances.

(a) All ordinances, resolutions, rules and regulations in effect in the town at the time this Charter becomes effective (See note (1)) which are not in conflict with the provisions of this Charter shall remain in effect until changed or repealed according to the provisions of this Charter.

(b) All ordinances, resolutions, rules and regulations in effect in the town at the time this Charter becomes effective which are in conflict with the provisions of this Charter be and the same hereby are repealed to the extent of such conflict. (3-9-64, § 88.)

Section 17-89. Masculine gender to include feminine.

Whenever the masculine gender has been used in this Charter, it shall be construed to include the feminine gender. (3-9-64, § 89.)

Section 17-90. Separability.

If any section or part of section of this Charter shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this Charter nor the context in which such section or part of section so held invalid shall appear, except to the extent that an entire section or part of section may be inseparably connected in meaning and effect with the section or part of section to which such holding shall directly apply. (3-9-64, § 90.)

## **NOTES**

- (1) This Charter became effective April 28, 1964.
- (2) This Charter was adopted March 9, 1964, and became effective April 28, 1964.

